

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TIMOTHY MOXLEY, et al.,)	
)	
)	
Plaintiffs,)	Case No. 2:21-cv-03838
)	
v.)	Judge Michael H. Watson
)	
THE OHIO STATE UNIVERSITY,)	Chief Magistrate Judge Elizabeth P.
)	Deavers
Defendant.)	
)	

**PLAINTIFFS' MOTION TO EXCEED PAGE LIMITATIONS FOR
BRIEF IN OPPOSITION TO DEFENDANT'S MOTION TO DISMISS**

Plaintiffs, by and through counsel, hereby respectfully move this Honorable Court, pursuant to the Court's Standing Order, for an order permitting Plaintiffs to exceed the Court's twenty (20) page limitation and respond to Defendant's Motion to Dismiss, Dkt. 17, by way of a brief of no more than thirty (30) pages. Pursuant to S.D. Ohio Civ. R. 7.3, Plaintiffs conferred with Defendant by email on September 22, 2021. Defendant has not yet responded to Plaintiffs' request.

For reasons more fully set forth in the Memorandum in Support, Plaintiffs respectfully request that the Court grant Plaintiffs' Motion.

Dated: Columbus, OH
September 23, 2021

Respectfully submitted,

By: /s/ Scott E. Smith
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MEMORANDUM IN SUPPORT

Plaintiffs respectfully move the Court, pursuant to the Court's Standing Order, for an order permitting Plaintiffs to exceed the Court's twenty (20) page limitation and respond to Defendant's Motion to Dismiss, Dkt. 17, by way of a brief of no more than thirty (30) pages. This case presents the extraordinary circumstances warranting an expansion of the page limitations: Plaintiffs consist of 34 individuals with claims against OSU embodied in a 159-page Complaint with 936 paragraphs. Plaintiffs have two separate bases, each supported by different caselaw, as to why their claims did not accrue until 2018 at the earliest, and a third basis for timeliness, namely equitable tolling. Plaintiffs recognize that the Court resolved motions to dismiss in its September 22, 2021 Decision and Order in the related cases of *Garrett, et al. v. The Ohio State University*, No. 18-cv-672 (S.D. Ohio Sept. 22, 2021), Dkt. 197, and *Snyder-Hill, et al. v The Ohio State University*, No. 18-cv-736 (S.D. Ohio Sept. 22, 2021), Dkt. 158. Nevertheless, these 34 Plaintiffs need a full and fair opportunity in this separate matter to present their position and to ensure that they do not face claims upon appeal that they waived or failed to preserve arguments.

To ensure an appropriate presentation of the facts and the law in this case which is of upmost importance to each of our 34 clients, Plaintiffs seek permission to file a brief of no more than thirty (30) pages. This Court granted a similar request to plaintiffs in *Snyder-Hill*, Dkt. 132, permitting plaintiffs to file a forty (40) page brief in opposition to Defendant OSU's motion to dismiss that action.

Pursuant to S.D. Ohio Civ. R. 7.3, Plaintiffs conferred with Defendant regarding Plaintiffs' request for an extension. As of the filing of this motion, Defendant has not responded to Plaintiffs' request, made by email on September 22, 2021.¹

For good cause shown, Plaintiffs respectfully request the Court grant Plaintiffs permission to file a brief of no more than thirty (30) pages to oppose Defendant's Motion to Dismiss.

Respectfully submitted,

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¹ Defendant initially responded to Plaintiffs' request for consent on this motion with its proposed conditions of consent. Plaintiffs responded with a counter-proposal that Plaintiffs would seek ten (10) additional pages of briefing for a total of thirty (30) pages and would consent to Defendant seeking five (5) additional pages of briefing on reply. Defendant did not respond to this counter-proposal.

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CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing document was filed and served, via the Court's CM/ECF system on September 23, 2021, on all counsel of record.

By: /s/ Scott E. Smith
Attorney for Plaintiffs